



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-1073]

RIN 1625-AA08

Special Local Regulations; 2013 Lauderdale Air Show,  
Atlantic Ocean; Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a special local regulation on the Atlantic Ocean and the entrance of Port Everglades in the vicinity of Fort Lauderdale, Florida during the 2013 Lauderdale Air Show. The event is scheduled to take place from Thursday April 18, 2013, until Sunday, April 21, 2013. The regulation is necessary to ensure the safety of the participants, spectators, and the general public during the event. The special local regulation will establish the following two areas: an exclusion area, where all persons and vessels, except those persons and vessels participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within; and a limited access area, where all vessels over 500 gross

tons will be prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port Miami or a designated representative.

DATES: This rule is effective from 10 a.m. on April 18, 2013, until 5:30 p.m. on Sunday, April 21, 2013. The Atlantic Ocean exclusion area will be enforced daily from 10 a.m. until 5 p.m. from April 18, 2013, until April 21, 2013. The Port Everglades limited access area will be enforced daily from 4 p.m. until 5:30 p.m. on April 20, 2013, and April 21, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-1073. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard;

telephone (305) 535-7576, e-mail [Mike.H.Wu@uscg.mil](mailto:Mike.H.Wu@uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

#### A. Discussion of Comments and Changes

On January 10, 2013, the USCG published a Notice of Proposed Rulemaking (NPRM) entitled, "Proposed Rule: NPRM: Special Local Regulations: 2013 Lauderdale Air Show, Atlantic Ocean; Fort Lauderdale, FL," in the Federal Register (78 FR 2225). We received no comments on the proposed rule (Docket No. USCG-2012-1073). No public meeting was requested, and none was held.

#### B. Basis and Purpose

From Thursday, April 18, 2013, until Sunday, April 21, 2013, Lauderdale Air Show, LLC. will be hosting the 2013 Lauderdale Air Show. The Lauderdale Air Show will include numerous aircraft engaging in aerobatic maneuvers over the Atlantic Ocean. It is expected that approximately 500 spectator vessels will be present in the area during the

event. The high speed at which participant aircraft will be traveling and the maneuvers they will be performing pose a safety hazard to air show participants, participant aircraft, spectators, and the general public.

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the 2013 Lauderdale Air Show.

#### C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule and no changes were made to the regulatory text.

The Coast Guard is establishing a special local regulation comprised of two regulated areas for the 2013 Lauderdale Air Show. The two regulated areas are listed below.

1. Atlantic Ocean, Fort Lauderdale, Florida (exclusion area). Certain navigable waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida. This area will be enforced daily from 10 a.m. until 5 p.m. from April 18, 2013, through April 21, 2013. All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless

authorized by the Captain of the Port Miami or a designated representative.

2. Port Everglades, Fort Lauderdale, Florida (limited access area). Certain navigable waters of the Atlantic Ocean in the vicinity of Port Everglades in Fort Lauderdale, Florida. This will be a limited access area, and will be enforced daily from 4 p.m. until 5:30 p.m. on April 20, 2013, and April 21, 2013. Vessels over 500 gross tons are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at (305) 535-4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to

Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those orders. The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for a maximum of 7 and a half hours each day for only four days; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the exclusion area during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) vessels 500 gross tons or more may

enter, transit through, anchor in, or remain within the limited access area during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (4) vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received zero comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact

on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the regulated areas during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each



agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of

people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order

13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of

Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f). Due to potential environmental issues, we conducted an environmental assessment last year for both the issuance of the marine event permit and the establishment of this special local regulation. The same environmental assessment is being used for this year's event as it is substantially similar in all aspects and therefore the potential effects and alternatives remain unchanged. A supplemental environmental assessment was conducted for changes to the annual reoccurring event. After completing the supplemental environmental assessment for the issuance of the marine event permit, and the establishment of this special local regulation, we have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. The supplemental environmental assessment, environmental assessment, and finding of no significant

impact (FONSI) are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35T07-1073 to read as follows:

§ 100.35T07-1073 Special Local Regulation; 2013 Lauderdale Air Show, Atlantic Ocean, Fort Lauderdale, FL.

(a) Regulated areas. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Exclusion area. All waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida that are encompassed within an imaginary line connecting the

following points: starting at Point 1 in position 26°10'39"N, 80°05'47"W; thence southeast to Point 2 in position 26°10'32"N, 80°04'39"W; thence southwest to Point 3 in position 26°06'33"N, 80°05'08"W; thence northwest to Point 4 in position 26°06'40"N, 80°06'15"W; thence northeast back to origin.

(2) Limited access area. All waters of the Atlantic Ocean in the vicinity of Fort Lauderdale, Florida that are encompassed within an imaginary line connecting the following points: starting at Point 1 in position 26°05'41"N, 80°06'59"W; thence southeast to Point 2 in position 26°05'26"N, 80°06'51"W; thence northeast to Point 3 in position 26°05'32"N, 80°05'24"W; thence north to Point 4 in position 26°05'42"N, 80°05'24"W; thence southwest back to origin.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) Regulations. (1) All persons and vessels, are prohibited from:

(i) Entering, transiting through, anchoring in, or remaining within the exclusion area, unless participating in the event.

(ii) Transiting through, anchoring in, or remaining within the limited access area, unless less than 500 gross tons.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement periods. The exclusion area will be enforced daily from 10 a.m. until 5 p.m. from April 18, 2013, through April 21, 2013. The limited access area will

be enforced daily from 4 p.m. until 5:30 p.m. on April 20, 2013, and April 21, 2013.

Dated: March 7, 2013

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C. P. Scraba

Captain, U.S. Coast Guard

Captain of the Port Miami

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